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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,227	04/08/2004	Mark Vanderberg	BHA/016	9403

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FISH & NEAVE IP GROUP  
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1211 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036-8704

EXAMINER
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HENDERSON, MARK T

ART UNIT	PAPER NUMBER
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3722

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/821,227

Applicant(s)

VANDERBERG, MARK

Examiner

Mark T. Henderson

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 and 11-19 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-10 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED OFFICE ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claims 1-3, 6 and 7 have been amended for further examination. After further review and consideration, the examiner has withdrawn the previous allowable subject matter, and has submitted a new non-final office action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-10, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton (6,652,178) in view of Rowley (5,765,875) and further in view of Kizler (3,540,646).

Walton discloses in Fig. 2, 6, 7C and 7D, a display page having pockets (see Fig. 7D) comprising: a semi-rigid to rigid page (40); at least one deep pocket (20) attached to the page (see Fig. 7C); wherein the pocket has a front wall (85) and side walls (202), and a flap (24) disposed approximate the opening of the pocket (20) and moveable between an open and closed position (see Fig. 2); and wherein the pocket (20) can be made of any desirable material and constructed in any desirable shape or dimension (Col. 9, lines 16-24). Walton further discloses a locking mechanism (Col. 8, lines 48-52) having a first portion (88A) and a second portion (88B) adapted to retain the flap in a closed position. In regards to **Claims 8 and 9**, Walton discloses wherein the opening of the pocket is proximate either a side edge of the display page (as shown in Fig. 6), or proximate a top edge (as shown in Fig. 7D).

However, Walton does not disclose wherein the front walls of the pocket are transparent, and comprise a notched out portion or window; and wherein the flap covers the window.

Rowley discloses in Fig. 4, a pocket (46) having a transparent front wall (Col. 7, lines 35-45).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Walton's pocket with transparent material as taught by Rowley for providing a means in which to inspect inserted items before opening the pocket flap.

However, Walton as modified by Rowley does not disclose pocket having a notched out portion or window; and wherein the flap covers the window.

Kizler discloses in Fig. 1, a pocket (42 or 44) having a notched out portion or window, wherein the flap covers the notched out portion or window (40).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Walton's and Rowley's pocket with a pocket having a notched out portion or window as taught by Kizler for permitting items to be inspected upon partial lifting to a minimum height in the pocket.

In regards to **Claims 6 and 7**, wherein the size of the notched out portion of the cover is disposed over a majority or minority of the front wall, it would have been obvious to one having skill in the art to construct the notch size in any desirable size, since such a modification would have involved a mere change in the size of a component and would cause the invention to perform differently, since its purpose is only used for inspection usage. A change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been to construct the notch size of the front wall with any desirable dimension, since invention would not perform any differently due to the fact that the notch is primarily used to inspect items before being fully removed from pocket.

In regards to **Claims 20-22**, wherein the pockets being deep enough to hold photographs and media storage device, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making,

the intended use must result in a manipulative difference as compared to the prior art. Therefore, the pockets of Walton are capable of being deep enough to hold any item as desired by the end user, which includes various media storage devices.

*Allowable Subject Matter*

3. Claims 3, and 11-19 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: No prior art of record discloses or fairly suggest a display page comprising: at least one pocket attached to a page by at least one flange extending from at least one side wall of the pocket; and including all of the other limitations of the independent claim.

*Response to Arguments*

5. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Walton as modified by Rowley and Kizler is now used to disclose a display page as claimed by applicant. Rowley is used to disclose a transparent pocket, and Kizler is used to disclose a pocket having a notched out portion or window.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gerbasi, Brown, Prosa, Markus et al, and Barrick disclose similar display pages.

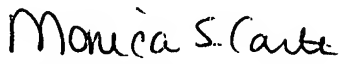
**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Monica Carter, can be reached at (571) 272-4475. The formal fax number for TC 3700 is (571) 273-8300.



MTH

February 15, 2007

  
MONICA CARTER  
SUPERVISORY PATENT EXAMINER